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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,741

07/27/2006

Remo Meister

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3550

28289 7590 11/10/2010  
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EXAMINER

RAHIM, AZIM

ART UNIT

PAPER NUMBER

3784

MAIL DATE

DELIVERY MODE

11/10/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/587,741	<b>Applicant(s)</b> MEISTER, REMO	
	<b>Examiner</b> AZIM RAHIM	<b>Art Unit</b> 3784	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 October 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 27-33.
- Claim(s) withdrawn from consideration: none.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/Henry Yuen/  
Supervisory Patent Examiner, TC 3700

/Azim Rahim/  
Examiner, Art Unit 3784

Continuation of 11. does NOT place the application in condition for allowance because: On pages 4-6 of the applicant's remarks, the applicant contends that "However, as can be seen from Fig. 45, the heat exchanger (1, 12) is not arranged in a refrigerant line leading to the injection valve (18b) of the refrigeration circuit (A), but it is arranged in the refrigerant line leading to a different injection valve (18a). Accordingly, this heat exchanger (1, 12) is by no means able to keep the temperature of the refrigerant at the entrance of injection valve (18b) constant," "Accordingly, there is no means between the condenser (12) and the expansion valve (18a), which is passed by a secondary medium to keep the temperature at the entrance of the injection valve (18a) constant, as in claim 27 and 31 of the present application," "Thus, according to the Pomme patent, the continuous variation of the degree of undercooling is avoided by using the aforementioned preliminary pressure reduction device 4. This means that combining the teachings of the Tanaka patent and the Pomme patent would result in a refrigeration circuit according to Fig. 45 of the Tanaka patent with an additional separating vessel and a preliminary pressure reduction device positioned at the entrance of said vessel at a position between the heat exchanger (1, 12) and the expansion valve (18a), unlike the invention as found in claims 27 and 31 of the present application," and "For these reasons, method claim 27 and apparatus claim 31 are believed to be patentably distinct over the teaching of the Tanaka patent in view of the teaching of the Pomme patent. By way of their dependence upon what are believed to be patentably distinct claims 27 and 31, dependent claims 28-29 and 32-33 are themselves believed to be patentably distinct over the teaching of the Tanaka patent alone or in combination with the teaching of the Pomme patent." The Examiner respectfully disagrees. Referring to figure 45 of Tanaka, the heat exchanger combination (12 & 1) is shown to be disposed between a conduit of a secondary medium which is the conduit disposed between heat exchanger sections 1 and 2 and a refrigerant pipe leading to injection valve 18b, which is the pipe where valve 18a is disposed. Depending on whether or not valve 18a is open, refrigerant would flow from heat exchanger section 12 through heat exchanger section 15 to the compressor and to the injection valve 18b. Therefore, this limitation has been taught. Also, Pomme was introduced for the teaching of maintaining the temperature of refrigerant at an entrance of an injection valve constant. In addition, nothing prevents Pomme to use additional components to aid in keeping the temperature of the refrigerant constant since the applicant has not excluded the elements from the claim. In conclusion, for at least these reasons, the Examiner respectfully submits that the applicant's arguments are not persuasive.